

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Appeals for
the Federal Circuit and the United
States Court of International Trade

Vol. 25

FEBRUARY 13, 1991

No. 7

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U.S. Court of International Trade

Slip Op. 91-3

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Classification: C91/5 Through C91/26

Valuation: V91/1

THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

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U.S. Customs Service

Treasury Decisions

(T.D. 91-8)

APPROVAL OF I.N.C. SURVEYS, INC. AS A COMMERCIAL GAUGER

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of approval of I.N.C. Surveys, Inc., as a commercial gauger.

SUMMARY: I.N.C. Surveys, Inc., of Houston, Texas recently applied to Customs for approval to gauge imported petroleum, petroleum products, organic chemicals and vegetable and animal oils under Part 151.13 of the Customs Regulations (19 CFR 151.13). Customs has determined that I.N.C. Surveys, Inc., meets all of the requirements for approval as a commercial gauger.

Therefore, in accordance with Part 151.13(f) of the Customs Regulations, I.N.C. Surveys, Inc., 7015 Gulf Freeway, Suite 150, Houston, Texas 77087 is approved to gauge the products named above in all Customs districts.

EFFECTIVE DATE: January 8, 1991.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue NW, Washington, D.C. 20229 (202-566-2446).

Dated: January 22, 1991.

JOHN B. O'LOUGHLIN,
Director,
Office of Laboratories and Scientific Services.

[Published in the Federal Register, February 5, 1991 (56 FR 4668)]

(T.D. 91-9)

EXTENSION OF ANALYSES FOR WHICH CARIBBEAN PETROLEUM INSPECTORS, INC., AN APPROVED CUSTOMS GAUGER, HAVE BEEN ACCREDITED TO PERFORM**AGENCY:** U.S. Customs Service, Department of the Treasury.**ACTION:** Notice of additional analyses for which Caribbean Petroleum Inspectors Inc., a Customs approved commercial gauger, have been accredited to perform.**SUMMARY:** Caribbean Petroleum Inspectors Inc., of Ponce, Puerto Rico, a Customs approved commercial gauger under Part 151.13 of the Customs Regulations (19 CFR 151.13), has been given Customs accreditation to perform the following laboratory analyses: API Gravity, Sediment and Water, Water by Distillation, Sediment by Extraction, Water by Distillation, Reid Vapor Pressure, Saybolt Universal Viscosity, Percent by Weight Sulfur, Percent by Weight Lead, Isomer Composition, Distillation Characteristics and Composition by Weight of Benzen, Toluene and Xylene.

Therefore, in accordance with Part 151.13(f) of the Customs Regulations, Caribbean Petroleum Inspectors Inc., El Senorial Bldg., 10 Salud Street - Suites 508-509, Ponce, Puerto Rico 00731 is accredited to perform the laboratory analyses named above and report the results to all Customs districts.

EFFECTIVE DATE: January 11, 1991.**FOR FURTHER INFORMATION CONTACT:** Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave. NW, Washington, D.C. 20229 (202-566-2446).**Dated:** January 25, 1991.

JOHN B. O'LOUGHLIN,
Director,
Office of Laboratories and Scientific Services.

[Published in the Federal Register, February 1, 1991 (56 FR 4123)]

(T.D. 91-10)

EXTENSION OF ANALYSES FOR WHICH UNITED SURVEYORS OF CHEMICALS, INC., APPROVED CUSTOMS GAGER, HAVE BEEN ACCREDITED TO PERFORM

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of additional analyses for which United Surveyors of Chemicals, Inc., a Customs approved commercial gauger, have been accredited to perform.

SUMMARY: United Surveyors of Chemicals, Inc., of Baytown, Texas, a Customs approved commercial gauger under Part 151.13 of the Customs Regulations (19 CFR 151.13), has been given Customs accreditation to perform the following laboratory analyses: API Gravity, Sediment and Water, Water by Distillation, Sediment by Extraction, Water by Distillation, Reid Vapor Pressure, Saybolt Universal Viscosity, Percent by Weight Sulfur, Percent by Weight Lead, Isomer Composition, Distillation Characteristics and Composition by Weight of Benzene, Toluene and Xylene.

Therefore, in accordance with Part 151.13(f) of the Customs Regulations, United Surveyors of Chemicals, Inc., 7501 Bayway Drive, Baytown, Texas 77520 is accredited to perform the laboratory analyses named above and report the results to all Customs districts.

EFFECTIVE DATE: January 10, 1991.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant For Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave. NW, Washington, D.C. 20229 (202-566-2446).

Dated: January 25, 1991.

JOHN B. O'LOUGHLIN,

Director,

Office of Laboratories and Scientific Services.

[Published in the Federal Register, February 1, 1991 (56 FR 4123)]

19 CFR Part 4

(T.D. 91-11)

PLEASURE VESSELS OF SWITZERLAND ENTITLED
TO CRUISING LICENSES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding Switzerland to the list of countries whose pleasure vessels may be issued U.S. cruising licenses. Customs has been informed that yachts used and employed exclusively as pleasure vessels belonging to any resident of the U.S. are allowed to arrive at and depart from Swiss ports and cruise in the waters of Switzerland without being subjected to formal entry and clearance procedures. Therefore, Customs is extending reciprocal privileges to Swiss-flag pleasure vessels.

DATES: These privileges became effective for Switzerland on March 22, 1990. This amendment is effective February 4, 1991.

FOR FURTHER INFORMATION CONTACT: Kristina Ver Steeg, Carrier Rulings Branch (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4.94(a), Customs Regulations (19 CFR 4.94(a)), provides that U.S. documented vessels with a recreational endorsement, used exclusively for pleasure, not engaged in any trade, and not violating the customs or navigation laws of the U.S., may proceed from port to port in the U.S. or to foreign ports without entering and clearing, as long as they have not visited hovering vessels. When returning from a foreign port or place, such pleasure vessels are required to report their arrival pursuant to § 4.2, Customs Regulations (19 CFR 4.2).

Generally, foreign-flag yachts entering the U.S. are required to comply with the laws applicable to foreign vessels arriving at, departing from, and proceeding between ports of the U.S. However, as provided in § 4.94(b), Customs Regulations (19 CFR 4.94(b)), pleasure vessels from certain countries may be issued cruising licenses which exempt them from formal entry and clearance procedures (e.g., filing manifests, obtaining permits to proceed and paying entry and clearance fees). Upon arrival at each port of entry in the U.S., the master shall report the fact of arrival to the appropriate Customs office. Yachts or pleasure vessels not carrying passengers or merchandise in trade are exempt from paying tonnage tax and light money pursuant to § 4.21(b)(5), Customs Regulations (19 CFR 4.21(b)(5)). Cruising licenses are available to pleasure vessels of countries which extend reciprocal privileges to U.S. pleasure vessels. A list of these countries is set forth in § 4.94(b).

By diplomatic note, the Government of Switzerland informed the Department of State that Switzerland permits U.S.-flag yachts, used exclusively as pleasure vessels and belonging to any resident of the U.S., to arrive at and depart from Swiss ports and to cruise the waters of Switzerland without entering and clearing Swiss Customs and without the payment of any charges for entering or clearing, dues, duty per ton, tonnage taxes, or charges for cruising licenses.

On March 22, 1990, the Department of State advised the Chief, Carrier Rulings Branch, U.S. Customs Service, of the position of Switzerland. The Chief, Carrier Rulings Branch, is of the opinion that satisfactory evidence has been furnished to establish the reciprocity required in § 4.94(b), effective March 22, 1990. Accordingly, Switzerland should be added to the list of countries set forth in § 4.94(b).

The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS, THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12291

Because this amendment merely implements a statutory requirement and confers a benefit upon the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary; further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This amendment does not meet the criteria for a "major rule" as defined in E.O. 12291 and, accordingly, a regulatory impact analysis is not required.

DRAFTING INFORMATION

The principal author of this document was Frank Foote, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 4

Customs duties and inspection, Maritime carriers, Vessels, Yachts.

AMENDMENT TO THE REGULATIONS

To reflect the reciprocal privileges granted to vessels registered in Switzerland, Part 4, Customs Regulations (19 CFR Part 4), is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES)

1. The authority for Part 4 is revised to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. App. 3;

* * * * *

§ 4.94 also issued under 19 U.S.C. 1433, 1434, 1435, 1441, 46 U.S.C. App. 91, 104, 313, 314;

* * * * *

§ 4.94 [Amended]

2. Section 4.94(b), Customs Regulations (19 CFR 4.94(b)), is amended by inserting, in appropriate alphabetical order, "Switzerland" in the list of countries whose yachts may be issued U.S. cruising licenses.

Dated: January 29, 1991.

KATHRYN C. PETERSON,
Chief,

Regulations and Disclosure Law Branch.

[Published in the Federal Register, February 4, 1991 (56 FR 4174)]

ERRATA

(THE FOLLOWING DOCUMENT, T.D. 91-6, ORIGINALLY PUBLISHED IN THE CUSTOMS BULLETIN, VOL. 25, NO. 2/3, ON JANUARY 16, 1991, IS BEING RE-PRINTED DUE TO AN ERROR IN THE INTRODUCTORY MATTER. NOTE THAT THE RATES STATED ARE FOR THE PERIOD JANUARY 1 THROUGH MARCH 31, 1991.)

(T.D. 91-6)

FOREIGN CURRENCIES

QUARTERLY RATES OF EXCHANGE JANUARY 1 THROUGH MARCH 31, 1991

The table below lists rates of exchange, in United States dollars for certain foreign currencies, which are based upon rates certified to the Secretary of the Treasury by the Federal Reserve of New York under provisions of 31 U.S.C. 5151, for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, customs Regulations (19 CFR 159, Subpart C).

Country	Name of currency	U.S. dollars
Australia	Dollar	\$0.773500
Austria	Schilling	0.095352
Belgium	Franc	0.032552
Brazil	Cruzado	N/A
Canada	Dollar	0.864006

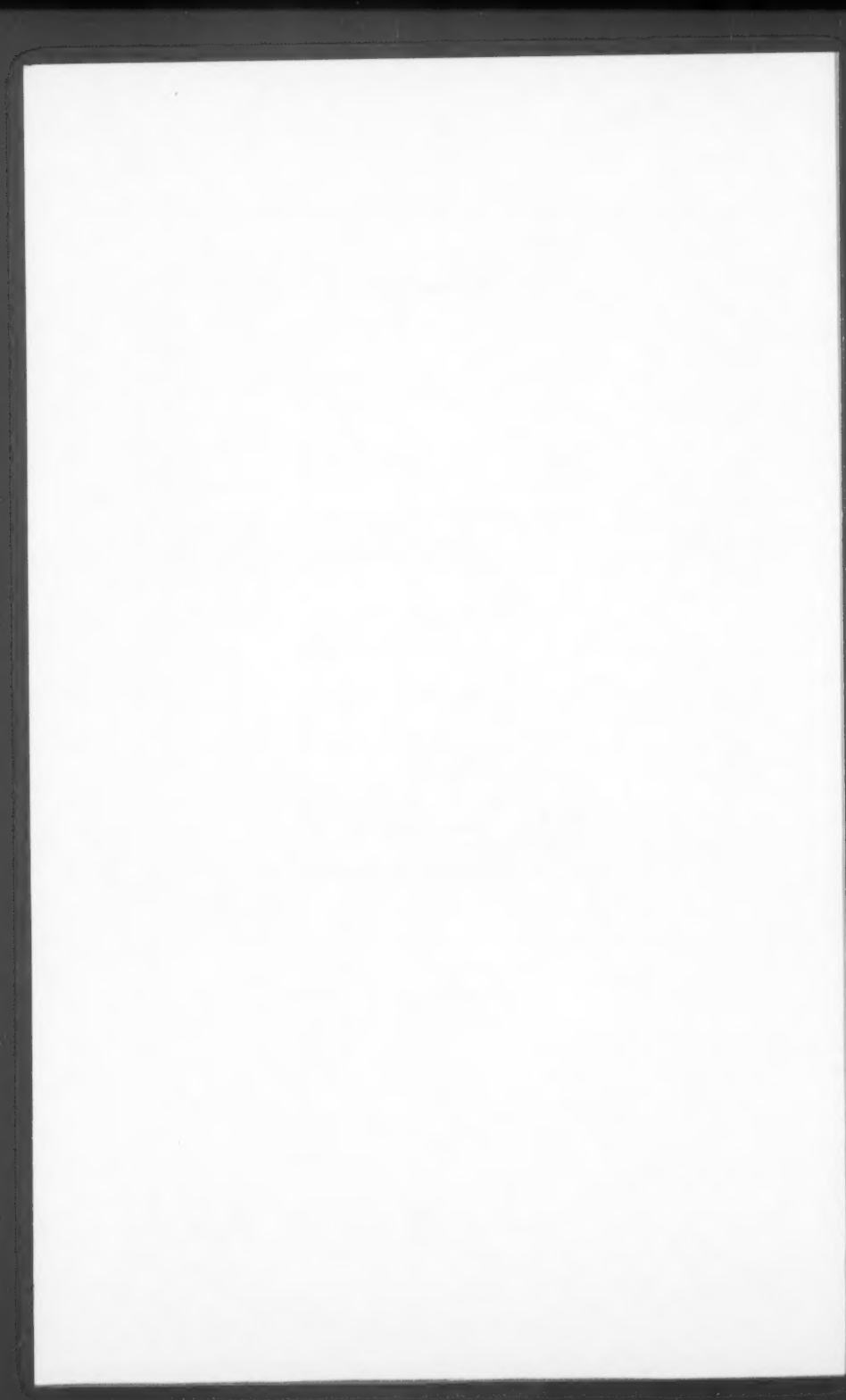
FOREIGN CURRENCIES—Quarterly rates of exchange January 1 Through
March 31, 1991 (continued):

Country	Name of currency	U.S. dollars
China, P.R.	Renimbi yuan	0.191015
Denmark	Krone	0.174246
Finland	Markka	0.277662
France		0.197161
Germany	Deutsche mark	0.671141
Hong Kong	Dollar	0.128279
India	Rupee	0.055249
Iran	Rial	N/A
Ireland	Pound	1.787000
Italy	Lira	0.000891
Japan	Yen	0.007429
Malaysia	Dollar	0.369208
Mexico	Peso	N/A
Netherlands	Guilder	0.595238
New Zealand	Dollar	0.591800
Norway	Krone	0.170999
Philippines	Peso	N/A
Portugal	Escudo	0.007527
Singapore	Dollar	0.573559
South Africa, Republic of	Rand	0.392465
Spain	Peseta	0.010517
Sri Lanka	Rupee	0.024846
Sweden	Krona	0.178492
Switzerland	Franc	0.792267
Thailand	Baht (tical)	0.039635
United Kingdom	Pound	1.942500
Venezuela	Bolivar	N/A

(LIQ-03-01 S:NISD CIE)

Dated: January 2, 1991.

MICHAEL MITCHELL,
Acting Chief,
Customs Information Exchange.



U.S. Court of Appeals for the Federal Circuit

SEA-LAND SERVICE, INC., PLAINTIFF-APPELLANT v.
UNITED STATES, DEFENDANT-APPELLEE

Gerald A. Malia, Ragan & Mason, of Washington, D.C., argued for plaintiff-appellant. With him on the brief were *John E. Vargo* and *Michael F. DiCroce*. Also on the brief was *Robert S. Zuckerman*, Deputy General Counsel, Sea-Land Services, Inc., Iselin, New Jersey, of counsel.

Barbara M. Epstein, Commercial Litigation Branch, Department of Justice, of New York, New York, argued for defendant-appellee. With her on the brief were *Stuart M. Gerson*, Assistant Attorney General, *David M. Cohen*, Director and *Joseph I. Liebman*, Attorney in Charge, International Trade Field Office.

Appeal No. 90-1361

(Decided January 29, 1991)

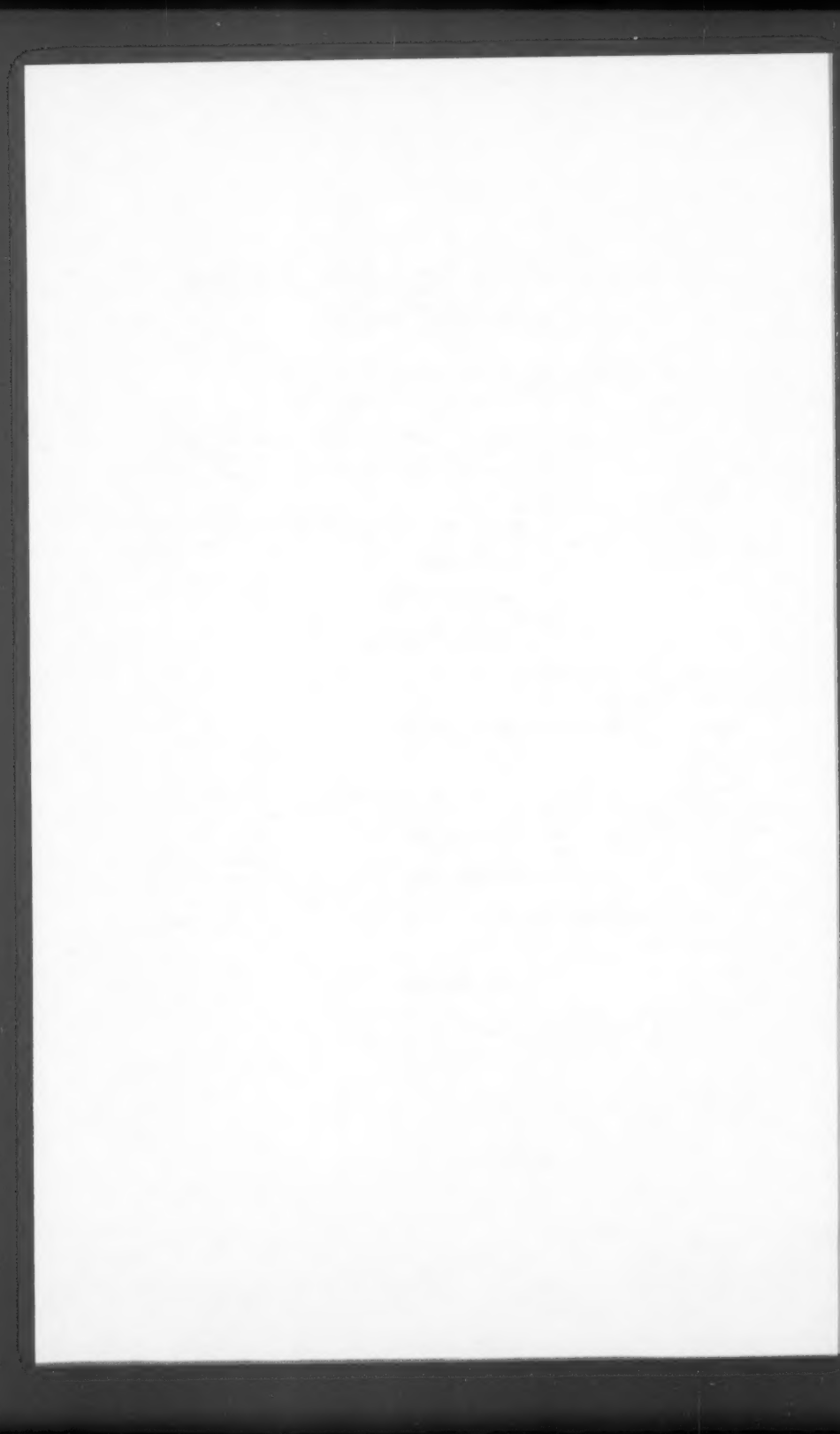
Appealed from: U.S. Court of International Trade.
Judge TSOUCALAS.

Before RICH, MAYER, and RADER, *Circuit Judges.*

PER CURIAM.

Sea-Land Service, Inc. appeals the judgment of the United States Court of International Trade granting the United States' motion to sever and dismiss 73 of Sea-Land's entries. The court held that Sea-Land did not timely commence suit challenging the United States Customs Service's denial of its protests over the amount of duty assessed on the entries. *See Sea-Land Serv., Inc. v. United States*, 735 F.Supp. 1059 (Ct. Int'l Trade 1990). We affirm on the basis of the court's opinion, which we adopt.

AFFIRMED



United States Court of International Trade

One Federal Plaza
New York, N.Y. 10007

Chief Judge
Edward D. Re

Judges

James L. Watson
Gregory W. Carman
Jane A. Restani
Dominick L. DiCarlo

Thomas J. Aquilino, Jr.
Nicholas Tsoucalas
R. Kenton Musgrave

Senior Judges

Morgan Ford
Herbert N. Maletz
Bernard Newman
Samuel M. Rosenstein
Nils A. Boe

Clerk
Joseph E. Lombardi

Decisions of the United States Court of International Trade

(Slip Op. 91-3)

ROLLIX BEARING, INC., PLAINTIFF *v.* UNITED STATES, DEFENDANT

Court No. 85-11-01575

[Customs' classification of the subject merchandise under item 681.39, Tariff Schedule of the United States is reversed. Proper classification is held to be TSUS item 680.49 as relatively more specific than TSUS item 681.39; application of "use provision" to prevail.]

(Decided January 24, 1991)

Sonnenberg, Anderson, O'Donnell & Rodriguez (Thomas J. O'Donnell, Mary E. Gill, and R. Kevin Williams), for the plaintiff.

Stuart M. Gerson, Assistant Attorney General, *Joseph I. Liebman*, Attorney in Charge, International Trade Field Office, Commercial Litigation Division, Civil Division, United States Department of Justice (*Susan Burnett Mansfield*), for the defendant.

OPINION AND JUDGMENT

CARMAN, *Judge*: Plaintiff, Rollix Bearing, Inc. ("Rollix") contests the classification and liquidation of its merchandise, geared slewing rings, pursuant to section 514, of the Tariff Act of 1930, as amended, 19 U.S.C. § 1514 (1982). The United States Customs Service ("Customs") denied the protest pursuant to 19 U.S.C. § 1515(a) (1982), and a summons was timely filed. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1581(a) (1982). After careful examination of the evidence presented at trial, the arguments of the parties, the tariff schedules, the case law, and other relevant authorities, this Court holds that the United States Customs Service improperly classified the subject merchandise as machinery parts not containing electrical features and not specially provided for as item 681.39, Tariff Schedules of the United States ("TSUS") (1983), dutiable at the rate of 7.6% *ad valorem* and finds the correct classification to be TSUS item 680.49 (1983) as parts of fixed ratio speed changers, dutiable at the rate of 3.5% *ad valorem*.

BACKGROUND

The issue presented in this case pertains to the proper classification for customs duty purposes of geared slewing rings imported by Rollix Bearing, Inc., now Defontaine, Inc., from France into the United States. As demonstrated at trial by the samples in evidence, the main components of the merchandise consist of an inner and outer ring, one of which has gear teeth, and bearing elements, such as ball rings or cylindrical rollers.

Initially, the geared slewing rings were classified by Customs under TSUS item 657.25 as articles of iron or steel, not coated or plated with precious metal. Rollix protested Customs' initial determination. Customs, in a decision on application for further review of the protest, ultimately determined that the merchandise should have been classified under TSUS item 681.39 as machinery parts not containing electrical features and not specially provided for based on the reasoning that TSUS item 681.39 is more specific than TSUS item 657.25. *Post-Trial Brief for the United States, Defendant* at 20 ("*Defendant's Brief*"). Because the rate of duty required under TSUS item 681.39 was the same as that required under TSUS item 657.25, Customs denied the protest in full.

Subsequent to Customs' reclassification of geared slewing rings, the defendant submitted two alternative classifications in a counter claim which was dismissed by this Court. The defendant advances two alternative classifications to the classifications made by Customs which are TSUS item 680.37 as ball bearings and parts thereof and TSUS item 680.39 as other bearings.

Rollix brought this action and contends that the merchandise is properly classifiable under TSUS item 680.49 as parts of fixed ratio speed changers.

CONTENTION OF THE PARTIES

Plaintiff contends that its merchandise, geared slewing rings, should be reclassified as parts of a fixed ratio speed reducer, a kind of speed changer that operates in fixed ratios, under TSUS item 680.49, because TSUS item 680.49 more specifically describes the geared slewing ring than does Customs' classification TSUS item 681.39. In addition, because Customs has submitted an alternative claim, plaintiff argues that Customs should no longer have the benefit of presumption of correctness, as applied in the holding of *Jarvis Clark Co. v. United States*, 2 Fed. Cir. (T) 70, 75, 733 F.2d 873, 878, *reh'g denied*, 2 Fed. Cir. (T) 97, 739 F.2d 628 (1984). Finally, plaintiff contends that the Brussels Tariff Nomenclature is applicable to its TSUS classification under TSUS item 680.49.

Defendant contends that the geared slewing rings at issue should be properly classified under TSUS item 681.39 as machinery parts not containing electrical features and not specially provided for. Defendant further contends that the Brussels Tariff Nomenclature does not support plaintiff's classification under TSUS item 680.49.

In the alternative, defendant suggests that the geared slewing rings at issue could be properly classified under either TSUS item 680.37 as ball bearings or TSUS item 680.39 as other bearings.

DISCUSSION

Presumption of Correctness

A presumption of correctness exists in favor of Customs' classification of an imported product and the burden of proof rests upon the party

challenging the classification. 28 U.S.C. § 2639(a)(1) (1982); *Jarvis Clark*, 2 Fed. Cir. (T) at 75, 733 F.2d at 878. This presumption of correctness pertains not only to Customs' final classification, but also to every element necessary to support that determination. *United States v. New York Merchandise Co., Inc.*, 58 CCPA 53, 58, C.A.D. 1004, 435 F.2d 1315, 1318 (1970); *Schott Optical Glass, Inc. v. United States*, 82 Cust. Ct. 11, 15, C.D. 4783, 468 F. Supp. 1318, 1320, *aff'd*, 67 CCPA 32, C.A.D. 1239, 612 F.2d 1283 (1979). In order to determine whether Customs' classification is correct, this Court must consider Customs' classification both independently and in comparison with the plaintiff's alternatives. *Jarvis Clark*, 2 Fed. Cir. (T) at 75, 733 F.2d at 878.

The presumption of correctness pertains to Customs' final classification. *United States v. New York Merchandise Co., Inc.*, 58 CCPA 53, 58, C.A.D. 1004, 435 F.2d 1315, 1318 (1970). Defendant agrees that the final classification decision of the Customs Service was that the merchandise was properly classified under TSUS item 681.39. Therefore, a presumption of correctness attaches to Customs' classification of the subject merchandise under TSUS item 681.39 as machinery parts not containing electrical features and not specially provided for, and the plaintiff carries the burden of proving that this classification is not correct.

As to the government's alternative classifications, TSUS items 680.37 and 680.39, there is no presumption of correctness. In *J.M. Rodgers Co., Inc. v. United States*, 59 cust. Ct. 91, C.D. 3084 (1967), the court rejected the government's alternate claims by stating:

Where defendant asserts a claim in defense, different from the liquidation classification, the burden is on defendant to prove it. The presumption of correctness * * * does not extend to a new claim urged by defendant. [citations omitted.] It is no part of plaintiff's case to meet every possible unsupported classification defendant can think of.

Id. at 95.

This Court finds that plaintiff has overcome the presumption of correctness attached to Customs' classification under TSUS item 681.39. Furthermore, this Court finds that plaintiff has met its burden in convincing this Court that the subject merchandise, geared slewing rings, should be classified under TSUS item 680.49 as parts of a fixed ratio speed changer.

The following are the pertinent provisions of the Tariff Schedule:

Customs' Original Classification:

Schedule 6, Part 3, Subpart G (1983):

Articles of iron or steel, not coated or plated with precious metal:

* * * * * *

Other articles:

* * * * * *

Other:

* * * * *

657.25 Other 7.6% *ad val.**Customs' Final Classification:*

Schedule 6, Part 4, Subpart J (1983):

681.39 Machinery parts not containing electrical features
and not specially provided for 7.6% *ad val.**Customs' Second and Third Alternative Claim:*

Schedule 6, Part 4, Subpart J (1983):

Ball or roller bearings, including such bearings with integral
shafts, and parts thereof:680.37 Ball bearings, and parts thereof 11% *ad val.*680.39 Other 9.8% *ad val.**Plaintiff's Claimed Classification:*

Schedule 6, Part 4, Subpart J (1983):

Gear boxes and other speed changers with fixed, multiple, or vari-
ables, or variable ratios; pulleys and shaft couplings; pillow blocks;
flange, take-up, cartridge, and hanger units; torque converters;
chain sprockets; clutches and universal joints; all the foregoing (ex-
cept parts of agricultural or horticultural machinery and imple-
ments provided for in item 666.00 and parts of motor vehicles,
aircraft, and bicycles) and parts thereof:

Gear boxes and other speed changers, and parts thereof:

Fixed ratio speed changers, multiple and variable ratio
speed changers each ratio of which is selected by manual
manipulation, and parts thereof:680.49 Other 3.5% *ad val.*

According to Plaintiff's Exhibit 1 (Rollix's Company Catalogue on Slewing Rings), slewing rings are an essential element in numerous mechanical assemblies. They are used in the application of amusement rides, concrete pumps, draglines, dock cranes, forklift trucks, hydraulic shovels, loading dock cranes, mobile cranes, offshore cranes, tower cranes, and turntable ladders. *Id.* at 29.

Plaintiff's Exhibit 2, *supra*, at 5, defines a geared slewing ring as consisting of an outer and inner ring, one of which has gear teeth; bearing elements (ball rings or cylindrical rollers) separated by spacers; a plug and a retaining pin to keep the rolling elements in position after insertion; and a seal to retain the lubricant in the slewing ring. *Rollix's General Catalogue for Slewing Rings* at 5 (Plaintiff's Exhibit 2); *Rotek's*

Design Guide and Catalogue on Large Diameter Ball and Roller Bearings at 5, 7 (Defendant's Exhibit F).

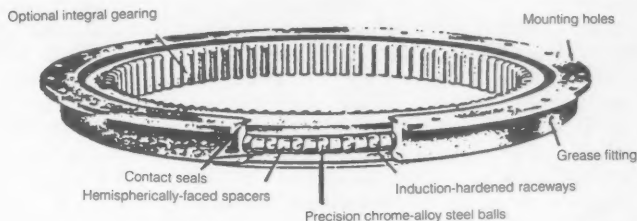


Figure A is an example of a slewing ring.

The slewing ring has an inner and outer ring; it operates by having one ring attached to a base structure and the other to a rotating structure. Tr. at 119. Plaintiff's witness, Mr. Michael Strand, general manager of Defontaine (formerly known as Rollix), testified that gear teeth are cut into the outside of the outer ring or the inside of the inner ring. Trial Transcript at 23, 199 ("Tr."). Both plaintiff's witnesses, Dr. Carl S. Larson and Mr. Strand, testified that the bearing elements reduce friction and allow ease of rotation under a load. Tr. at 53, 133, 144.

It is an uncontested fact that a slewing ring is used in rotating various structures mounted upon it. Pretrial Order, Schedule C, No. 5. Dr. Larson testified that different mounting methods of a slewing ring neither affect the function of the slewing ring nor its ability to transmit power. Tr. at 128, 132. Dr. Larson identified the size of the gears and the shape and strength of the teeth as the only factors which limit the amount of torque and power transmittable by a set of gears. Tr. at 128. He explained that the size of the ring gear and the number of its teeth control the amount of speed reduction and the amount of power which can be transmitted from the pinion to the rotating structure. Tr. at 260. Furthermore, Dr. Larson testified that the greater the torque, the greater the strength required by the gears to transmit this torque. Tr. at 140.

Dr. Larson listed the components of a slewing ring system as consisting of a prime mover (motor), a gear transmission between the motor and the pinion, a pinion, and a slewing ring. Tr. at 120. The gear transmission in a slewing ring is normally a fixed ratio speed reducer. Tr. at 123.

It is an uncontested fact that rotation of a slewing ring is accomplished by a pinion gear or worm gear which engages the teeth of the slewing ring. Pretrial Order, Schedule C, No. 7. Mr. Strand testified that the drive pinion meshes with the gear on the slewing ring to rotate and position the mounted structure. Tr. at 24. The power to drive the pinion is supplied by a motor, which may be hydraulic, electric, or internal combustion. Pretrial Order, Schedule C, No. 8. The drive mechanism can be

a motor attached directly to the pinion or a motor attached to a separate gear box that is attached to the pinion. Tr. at 43. Dr. Larson explained the operation of a gear box as a set of gears inside a box which serve to transmit the motion, power, and torque of a motor through the gears to the output shaft of the gear box. Tr. at 134. See R.E. Trautschold, *Standard Gear Book* 5-6 (1935) (Defendant's Exhibit J). This type of drive mechanism is usually used since the speed of the motor is reduced in two stages. Tr. at 51.

Mr. Strand explained that if a motor operates at 1500 revolutions per minute (RPM), the first reduction occurs in the gear box attached to the motor and usually reduces the speed to around 25 RPM. Tr. at 51, 52. The second reduction occurs between the drive pinion and the slewing ring gear to reduce the speed from 25 RPM to 1 RPM. *Id.* The RPM must be reduced because the speed of the motor (1500 RPM) is too high to be usable. *Id.* In addition, in moving a heavy load, the motor's speed must be reduced so the load can be rotated in a controlled manner. Tr. at 52.

Defendant's expert witness, Mr. Shapiro, testified that a gear driven slewing ring system is typically designed so that the drive motor and the pinion are mounted on the rotating portion of the machine and the geared ring of the slewing ring is attached to the fixed portion of the machine. Tr. at 204. The teeth of the geared slewing ring provide a pathway for the pinion to act on in causing rotation. *Id.* Mr. Shapiro found that Plaintiff's Exhibits 11 and 12, both of which were identified at trial as being a typical example of a model of a slewing ring and pinion combination at issue in this case (Tr. at 33-34), do not depict speed reducers. Tr. at 217-18. Mr. Shapiro did agree, however, that the pinion and geared race of the slewing ring in plaintiff's Exhibit 11 (model of a slewing ring and pinion combination) would be part of the overall speed reduction system of a crane which utilized toothed slewing rings to effect rotation. Tr. at 234-36. With respect to Exhibit 12, Mr. Shapiro opined that the pinion and geared slewing ring would not be part of the overall speed reduction system but would be "part of the slewing system." Tr. at 236-37.

Defendant's Collective Exhibit C explains that a speed reduction unit is often used in industry because "[m]otor speeds of 500 to 1,800 revolutions per minute are too high for industrial purposes, therefore, some mechanical reduction medium must be interposed between the motor and driven machine. The modern speed reduction gear unit has made possible the elimination of a multiplicity of chains, gears, shafting and belting for ratios such as 15 to 1 and higher." *Id.* at 392.

Mr. Strand, plaintiff's witness, testified that a speed changer is a set of two or more gears that change the speed of the input shaft as compared to the speed of the output shaft. Tr. at 55. In addition, Dr. Larson, testifying for plaintiff, defined a speed changer as a device that alters the angular speed, usually with a series of gears, between the input and output shafts of the changer. Tr. at 134. He explained that a speed reducer is a particular kind of speed changer in which the output speed of the device (RPM) is lower than the input speed rotation of an object over a period of

time. Tr. at 135. He concurred with the *McGraw-Hill Dictionary of Scientific and Technical Terms* 1508 (1978) (Plaintiff's Exhibit 13, at 14) that a speed reducer acts as "[a] train of gears placed between a motor and the machinery which it will drive, to reduce the speed with which power is transmitted." *Id.*

Mr. Strand explained that a gear is a circular toothed element which when meshed with a mating gear provides angular motion and transmits torque and power. Tr. at 47. In gears which operate in fixed ratios the number of teeth on the mating gear is fixed and not changeable. *Id.* The ratio is calculated or derived by dividing the number of teeth on the geared slewing ring by the number of teeth on the drive pinion. Tr. at 48. This gear ratio results in a reduction of speed between the drive pinion and the slewing ring. Tr. at 50-51.

Dr. Larson claimed that a geared slewing ring standing alone is not a speed reducer but is a part of a speed reducer. Tr. at 161-62, 182. Dr. Larson further testified that the slewing ring as identified in Plaintiff's Exhibits 11 and 12 is part of a speed changer since it transmits motion, torque, and power from the input member to the output member. Tr. at 136, 182.

"More Than" Issue

The government relies on *Robert Bosch Corp. v. United States*, 63 Cust. Ct. 96, 103, C.D. 3881 (1969), in which the court decided that where an article is significantly more diversified than as described by a specific statutory provision, it is not properly classifiable under that provision. The government contends that evidence established that the merchandise at issue has a significant bearing function that makes it more than parts of fixed ratio speed changers. To be a function that makes the slewing rings more or other than fixed ratio speed changers, the bearing function must be something other than a mere amplification or improvement on the gearing function. *Robert Bosch Corp.*, 63 Cust. Ct. at 104. It concludes that because the slewing ring has a significant bearing function, plaintiff has failed to overcome the presumption of correctness that attaches to Customs' classification.

The witnesses commonly agreed that the functions of the bearings in slewing rings is to facilitate rotation and reduce friction. It is uncontroverted that the gearing function of the subject merchandise takes place when the gear teeth of the pinion mesh with the gear teeth of the slewing ring, resulting in operation in a reduction of speed at a fixed ratio.

Plaintiff rebuts the government's "more than" argument by pointing out that all testimony at trial clearly established the fact that all speed changers of this type have a bearing function associated with them. The plaintiff argues that you cannot have a speed changer without a bearing, and, therefore, it is an essential component of the speed changer. Plaintiff notes that where an article incorporates a specific component which is necessary for the article to function, to make a "more than" argument is pointless. To further emphasize this argument, plaintiff analogises it

to a motor in an automobile by "arguing that the geared slewing ring is 'more than' a speed changer because it contains a bearing is like arguing that an automobile is 'more than' an automobile because it contains a motor even though all automobiles must contain motors." *Plaintiff's Reply Brief* at 4. Plaintiff concludes that the "more than" argument advanced by the defendant is incorrect because the bearing function performed by geared slewing rings is the usual bearing function which must be present in all speed changers.

This Court finds the contention of plaintiff more persuasive than that of defendant as to this issue. This Court finds that while slewing rings do have a bearing function, it is secondary to the primary gearing function of the slewing ring.

Common Meaning

Defendant further asserts that to determine if an article is more or other than that provided for in a particular tariff provision, the common meaning of the term is important. *E. Green & son (New York), Inc. v. United States*, 59 CCPA 31, 34, C.A.D. 1032, 450 F.2d 1396, 1398 (1971). The meaning of a particular tariff term is a question of law, while the determination of whether a particular article fits within that meaning is a question of fact. *Hasbro Indus., Inc. v. United States*, 879 F.2d 838, 840 (Fed. Cir. 1989); *Stewart-Warner Corp. v. United States*, 3 Fed. Cir. (T) 20, 22, 748 F.2d 663, 664-65 (1984); *Daw Indus., Inc. v. United States*, 1 Fed. Cir. (T) 146, 147-48, 714 F.2d 1140, 1141-42 (1983). Disputed meanings of a word in a tariff provision are resolved by ascertaining the common meaning of the word, from its commonly received and popular sense. *Schott Optical*, 82 Cust. Ct. at 16, 468 F. Supp. at 1321; *Trans-Atlantic Co. v. United States*, 60 CCPA 100, 102, C.A.D. 1088, 471 F.2d 1397, 1398 (1973); *United States v. Rembrandt Electronics, Inc.*, 64 CCPA 1, 5, C.A.D. 1175, 542 F.2d 1154, 1156 (1976). To determine the common meaning, in addition to relying upon its own understanding of the terms used, the Court may consult dictionaries, lexicons, the testimony of record, and other reliable sources of information as an aid to its knowledge. *United States v. C.J. Tower & Sons*, 44 CCPA 1, 4, C.A.D. 626 (1956); *Pistorino & Co., Inc. v. United States*, 81 Cust. Ct. 37, 41, C.D. 4763, 461 F. Supp. 331, 334 (1978), *aff'd*, 66 CCPA 95, C.A.D. 1227, 599 F.2d 444 (1979); *Schott Optical*, 82 Cust. Ct. at 16, 468 F. Supp. at 1321.

Defendant maintains that the merchandise is not commonly thought of in terms of any gearing/speed reduction function, but rather it is commonly thought of in terms of its bearing function. The reason defendant cites for this contention is that the witnesses referred to slewing rings as bearings. In addition, defendant relies on the manner in which slewing rings are marketed. Testimony of the witnesses and exhibits at trial revealed that plaintiff advertises its slewing rings in the Thomas Register, a trade directory, as large diameter bearings. See Defendant's Exhibit D. A 1983 edition of "Machine Design", a professional magazine for machine designers, also refers to slewing rings as large diameter bearings.

Tr. at 207-08. Thus, the defendant concludes that because slewing rings are commonly thought of as bearings and are not advertised as speed reducers or placed in the category of slewing rings or speed reducers in technical literature or advertisements, the bearing function makes it more or other than a fixed ratio speed changer.

Plaintiff argues that defendant's attempts to establish the common meaning of the term slewing ring are misguided and not at issue in this case because common meaning is an aid to understanding a tariff term. See *E. Green & Son*, 59 CCPA at 34; *The Englishtown Corp. v. United States*, 64 CCPA 84, 87, C.A.D. 1187, 553 F.2d 1258, 1260 (1977). Plaintiff contends that a slewing ring is not a tariff term and, therefore, its common meaning is irrelevant in that sense.

Plaintiff further argues that the fact that slewing rings are not referred to as bearings is not determinative of their classification. The fact that an article is commercially known by a specific name which differs from a generic tariff description is insufficient to exclude that article from classification under the tariff designation. See *Ehrenreich Photo-Optical Indus., Inc. v. United States*, 10 CIT 203, 212 (1986); *S.G.B. Steel Scaffolding & Shoring Co., Inc. v. United States*, 82 Cust. Ct. 197, 210, C.D. 4802 (1979). The court in *American Laubscher*, 64 Cust. Ct. 384, 390, C.D. 4006 (1970) rejected the government's argument that plaintiffs' claim was foreclosed because they failed to show that the gear trains in which the imported articles functioned as parts are commonly or commercially known as fixed ratio speed changers. The plaintiff contends that geared slewing rings are known by a variety of names, including ring gears, turntable bearings, swing gears, swing circles, turntables, large diameter bearings, rotation gears, rotation circles, etc.

Moreover, plaintiff contends that the marketing of a product is not determinative of its classification. *Venair Shade Corp. v. United States*, 66 Cust. Ct. 469, 472, C.D. 4235 (1971). Plaintiff asserts that the nature of advertising is such that many factors other than the precise description and use of an article influence its marketing. Plaintiff concludes that the fact that the subject geared slewing rings, which are parts of fixed ratio speed changers, are advertised under a category other than fixed ratio speed reducers is irrelevant, because *in use* they always function solely as parts of fixed ratio speed reducers.

Use Provision

A use provision prevails over a designation of general character without special limitations as to use or other qualifications and over *eo nomine* classifications. See *General Chain Belt Co. v. United States*, 46 CCPA 66, 70, C.A.D. 698 (1958); *Henley & Co., Inc. v. United States*, 49 CCPA 41, 45, C.A.D. 793 (1962). The Appellate Court in *United States v. Quon Co.*, 46 CCPA 70, C.A.D. 699 (1959) stated that "[o]f all things most likely to help in the determination of the identity of a manufactured article, use is of paramount importance." *Id.* at 73. The court in *American Laubscher* found that because pinions and gears "are dedi-

cated to use in gear trains, * * * they are part of speed changers." 64 Cust. Ct. at 390.

In *American Laubscher*, the Customs Court considered the classification of pinions and gears used in the gear train assemblies of elapsed time indicators, ammunition boosters, and safety devices. The court determined that their proper classification was as parts of "fixed ratio speed changers" under TSUS item 680.45.¹ *American Laubscher*, 64 Cust. Ct. at 391. In the elapsed time indicators, the pinion and gear were used in the gear train assembly which was located between the motor and a numbered wheel. *Id.* at 386. The purpose of the gear train was to reduce the rotational speed of the motor to obtain the desired rotation of the numbered wheel. *Id.* In the ammunition booster and safety devices, the imported gears and pinions changed the rotational speed of the rotor gear at a fixed ratio. The pinions and gears functioned in much the same manner as the pinion and slewing ring in the present case: the speed reduction was dictated by the number of teeth of each pinion and gear, as it is in the slewing ring system.

The court in *American Laubscher* held that because the gears and pinions were dedicated to use in gear trains and because a gear train is a speed changer, the gears and pinions were parts of speed changers. *Id.* at 390-91. Plaintiff contends that like the gears and pinions in *American Laubscher*, the geared slewing rings are parts of speed changers.

This Court agrees with plaintiff. Geared slewing rings at issue in this case function as gears or parts of gearing systems. The purpose of the gear is to transmit motion, torque, and power from one member to another member. The geared slewing rings do just that and are therefore gears. Further, when the number of teeth on the merchandise is divided by the number of teeth on the drive pinion and the two gears mate, this gear ratio results in a reduction of speed.

This Court finds that the merchandise at issue, geared slewing rings, are used as parts of fixed ratio speed changers. This Court holds that because the merchandise is used as parts of fixed ratio speed changers, application of the use provision shall prevail; further, TSUS item 680.49 prevails over the *eo nomine* classifications alternatively claimed by the government under TSUS items 680.37 and 680.39.

Relatively More Specific Provision

The restrictive clause "not specially provided for" in TSUS item 681.39 precludes classification of the slewing ring under item 681.39 if a more specific provision describes it. General Interpretive Rule 10 provides, in pertinent part:

(c) an imported article which is described in two or more provisions of the schedules is classifiable in the provision which most specifically describes it. * * *

¹ In 1966 and 1967, when the pinions and gears were imported, item 680.49 was numbered 680.45.

The court in *American Laubscher* found the merchandise at issue in that case more specific than the government's classification because it described a group of articles by the function it performs. *American Laubscher*, 64 Cust. Ct. at 388. The court in *Compania Azucarera Del Camuy, Inc. v. United States*, 62 Cust. Ct. 131, 132, C.D. 3696 (1969) found that the speed changer provision is a specific provision as distinguished from a general provision. Classification under TSUS item 680.49 requires that the article be used to change speed and it must do so measured by a fixed ratio.

This Court holds that TSUS item 680.49 is more specific than Customs' classification under the general basket provision of TSUS item 681.39 which covers machinery parts not containing electrical features and not specially provided for.

Legislative History and the Brussels Nomenclature

It is well settled that tariff acts must be construed to carry out the intent of the legislature. *Nippon Kogaku (USA), Inc. v. United States*, 69 CCPA 89, 92, 673 F.2d 380, 382 (1982); *Sandoz Chemical Works, Inc. v. United States*, 43 CCPA 152, 156, C.A.D. 623 (1956). The first place to look to establish the intent of Congress is the language of the statute itself. *Consumer Product Safety Comm'n v. GTE Sylvania, Inc.*, 447 U.S. 102, 108 (1980). "Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." *Id.*; see *Madison Galleries, Ltd. v. United States*, 870 F.2d 627, 630 (Fed. Cir. 1989).

During the drafting of the Tariff Schedules of the United States, the Tariff Commission studied other tariff, commodity, and classification systems. *Tariff Classification Study, Submitting Report 8* (1960). Of the systems consulted, "[t]he 'Brussels Nomenclature' and the 'Standard Industrial Classification Manual' exerted the greatest influence on the arrangement of the proposed revised schedules." *Id.*

Because the Brussels Nomenclature had a significant influence on the TSUS, the Brussels Nomenclature and its explanatory notes are often referred to as a source of legislative history for the TSUS, when the statute is ambiguous and the language of the TSUS and the Brussels provisions are identical or similar. See *W.R. Filbin & Co. v. United States*, 63 Cust. Ct. 200, 210, C.D. 3897, 306 F. Supp. 440 (1969); *Pitney-Bowes, Inc. v. United States*, 59 Cust. Ct. 181, 192, C.D. 3116 (1967); *J.E. Bernard & Co., Inc. v. United States*, 60 Cust. Ct. 296, 303, C.D. 3372 (1968); and *Kyocera Int'l, Inc. v. United States*, 2 CIT 91, 527 F. Supp. 337, 440 (1981), *aff'd*, 69 CCPA 168, 681 F.2d 796 (1982).

A comparison of the language of the superior heading to TSUS item 680.49 and Heading 84.63 of the Brussels Nomenclature indicates significant similarity between the two provisions. The superior heading to TSUS item 680.49 (1983) provides for:

Gear boxes and other speed changers with fixed, multiple, or variable ratios; pulleys, and shaft couplings; pillow blocks; flange; take-up, cartridge, and hanger units; torque converters; chain sprockets;

clutches and universal joints; all the foregoing (except parts of agricultural or horticultural machinery and implements provided for in item 666.00 and parts of motor vehicles, aircraft, and bicycles) and parts thereof.

Heading 84.63 of the Brussels Nomenclature covers:

Transmission shafts, cranks, bearing housings, plain shaft bearings, gears and gearing (including friction gears and gear-boxes and other variable speed gears), flywheels, pulleys and pulley-blocks, clutches and shaft couplings.

Nomenclature for the Classification of Goods in Customs Tariff 1955 164 (1959).

In March 1965 the Nomenclature Committee of the Customs Cooperation Council considered the appropriate classification for slewing rings under the Brussels Nomenclature. *Customs Cooperation Council Nomenclature Committee Summary* (Mar. 3, 1965) (Plaintiff's Exhibit 9). The Committee considered two alternative classifications for the slewing ring: Heading 84.62 as a ball or roller bearing and Heading 84.63 as gears or gearing. The Committee noted that:

Slewing rings on bearings are designed to absorb and transmit radial, axial, and tilting forces, and are used on cranes, excavators and other rotating equipment carrying large eccentric loads.

They consist of two or three rings of high tensile steel into which ball or roller races are machined; the purpose of those is not only to give ease of movement but also to withstand strain in two directions. Internal or external gears are machined directly into one of the bearing rings to accept the drive for the rotating machinery.

Id. at 1.

The Nomenclature Committee decided that slewing rings at issue before them "are essentially a combination of one or more ball or roller bearings of heading 84.62 and gears or gearing of heading 84.63 [and] that their principal function is the transmission of rotary motion to the mobile part of cranes, excavators or other machines on which they are mounted". *Id.* at 7. A majority of the Committee then decided "that these slewing rings derive their essential character from the transmission gear" and therefore, should be classified under 84.63. *Id.*

This Court finds that the language of TSUS item 680.49 and Heading 84.63 of the Brussels Nomenclature is similar. The Court also accords weight to the Brussels Committee ruling that found the slewing rings had more of a gearing function than a bearing function due mainly to the slewing rings' power transmission function.

CONCLUSION

This Court holds, after having examined the evidence presented at the trial, the relevant statutes and authorities, and upon all other matters presented, that the merchandise at issue, geared slewing rings, are parts of fixed ratio speed changers and are properly classifiable under TSUS item 680.49 as relatively more specific than the description set forth at TSUS item 681.39.

ABSTRACTED CLASSIFICATION

DECISION NO./DATE JUDGE	PLAINTIFF	COURT NO.	ASSESSMENT
C91/5 1/10/91 Re, C.J.	Endicott Johnson Corp.	83-8-01148	700.95 12.5%
C91/6 1/10/91 Re, C.J.	Endicott Johnson Corp.	83-11-01628	700.95 12.5%
C91/7 1/10/91 Re, C.J.	Endicott Johnson Corp.	84-1-00107	700.80 12.5%
C91/8 1/10/91 Re, C.J.	Endicott Johnson Corp.	84-10-01421	700.95 12.5%
C91/9 1/10/91 Re, C.J.	Endicott Johnson Corp.	84-11-01691	700.95 12.5%
C91/10 1/10/91 Re, C.J.	Endicott Johnson Corp.	85-1-00129	700.95 12.5%
C91/11 1/10/91 Re, C.J.	Endicott Johnson Corp.	85-6-00780	700.95 12.5%
C91/12 1/10/91 Restani, J.	Merck & Co.	89-6-00329	425.52 7.9%

CATION DECISIONS

ED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
	700.35 8.5% 700.45 10%	Mitsubishi Int'l Corp. v. U.S., S.O. 87-136 (1987)	New York Footwear
	700.35 8.5% 700.45 10%	Mitsubishi Int'l Corp. v. U.S., S.O. 87-136 (1987)	Norfolk Footwear
	700.45 10%	Mitsubishi Int'l Corp. v. U.S., S.O. 87-136 (1987)	St. Louis Footwear
	700.35 8.5% 700.45 10%	Mitsubishi Int'l Corp. v. U.S. S.O. 87-136 (1987)	New York Footwear
	700.35 8.5% 700.45 10%	Mitsubishi Int'l Corp. v. U.S., S.O. 87-136 (1987)	Minneapolis Footwear
	700.45 10%	Mitsubishi Int'l Corp. v. U.S., S.O. 87-136 (1987)	New York Footwear
	700.35 18.5%	Mitsubishi Int'l Corp. v. U.S., S.O. 87-136 (1987)	New York Footwear
	411.76 6.6%	Agreed statement of facts	New York Antibiotics

ABSTRACTED CLASSIFICATION I

DECISION NO./DATE JUDGE	PLAINTIFF	COURT NO.	ASSESSED
C91/13 1/10/91 Aquilino, J.	Western Service	83-4-00554	716.09-716.45 715.05, etc. Various rates
C91/14 1/15/91 Aquilino, J.	Anchor Time, Inc.	88-2-00146	716.09-716.45 or 715.05 Various rates
C91/15 1/15/91 Aquilino, J.	Belfont Sales Corp.	88-2-00116	716.09-716.45, or 715.05 Various rates
C91/16 1/15/91 Aquilino, J.	Delta Impex Watch	84-6-00848	716.09-716.45, or 715.05 Various rates
C91/17 1/15/91 Aquilino, J.	D&M Watch Corp.	84-7-00957	716.09-716.45 715.05, etc. Various rates

HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
688.45, 688.42, 688.43, 688.36, etc. Various rates	Belfont Sales Corp. <i>v. U.S.</i> , 878 F.2d 1413 (1989) or Texas Instruments Inc. <i>v. U.S.</i> , 673 F.2d 1375 (1982)	Los Angeles Quartz analog watches, etc.
688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. <i>v. U.S.</i> , 878 F.2d 1413 (1989) or Texas Instruments Inc. <i>v. U.S.</i> , 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. <i>v. U.S.</i> , 878 F.2d 1413 (1989) or Texas Instruments Inc. <i>v. U.S.</i> , 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. <i>v. U.S.</i> , 878 F.2d 1413 (1989) or Texas Instruments Inc. <i>v. U.S.</i> , 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. <i>v. U.S.</i> , 878 F.2d 1413 (1989) or Texas Instruments Inc. <i>v. U.S.</i> , 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.

C91/18 1/15/91 Aquilino, J.	E. Gluck Corp.	86-4-00524	716.09- 715.0 Varior
C91/19 1/15/91 Aquilino, J.	E. Gluck Corp.	86-10-01273	716.09- 715.0 Varior
C91/20 1/15/91 Aquilino, J.	Jawhar Trading Corp.	84-4-00474	716.09- 715.0 Varior
C91/21 1/15/91 Aquilino, J.	Jawhar Trading Corp.	84-7-00988	716.09- 715.0 Varior
C91/22 1/15/91 Aquilino, J.	Satellite Electronics	88-2-00157	716.09- 715.0 Varior
C91/23 1/15/91 Aquilino, J.	World Forum Watch, Ltd.	84-7-00972	716.09- 715.0 Varior

-716.45 05, etc. ous rates	688.45, 688.42, 688.43, 688.36, etc. Various rates	Belfont Sales Corp. v. U.S., 878 F.2d 1413 (1989) or Texas Instruments Inc. v. U.S., 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
-716.45 05, etc. ous rates	688.45, 688.42, 688.43, 688.36, etc. Various rates	Belfont Sales Corp. v. U.S., 878 F.2d 1413 (1989) or Texas Instruments Inc. v. U.S., 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
-716.45, or 05 ous rates	688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. v. U.S., 878 F.2d 1413 (1989) or Texas Instruments Inc. v. U.S., 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
-716.45, or 05 ous rates	688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. v. U.S., 878 F.2d 1413 (1989) or Texas Instruments Inc. v. U.S., 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
-716.45, or 05 ous rates	688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. v. U.S., 878 F.2d 1413 (1989) or Texas Instruments Inc. v. U.S., 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.
-716.45, or 05 ous rates	688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. v. U.S., 878 F.2d 1413 (1989) or Texas Instruments Inc. v. U.S., 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.

ABSTRACTED CLASSIFICATION D

DECISION NO./DATE JUDGE	PLAINTIFF	COURT NO.	ASSESSED
C91/24 1/17/91 Restani, J.	Totes Inc.	89-1-00003	384.91 17c per lb. 27.5%
C91/25 1/17/91 Restani, J.	Milor Belts, Inc.	89-4-00198	384.26 22.7%
C91/26 1/17/91 Aquilino, J.	Accutime Watch Corp.	86-9-01126	716.09-716.45, or 715.05 Various rates

DECISIONS—Continued

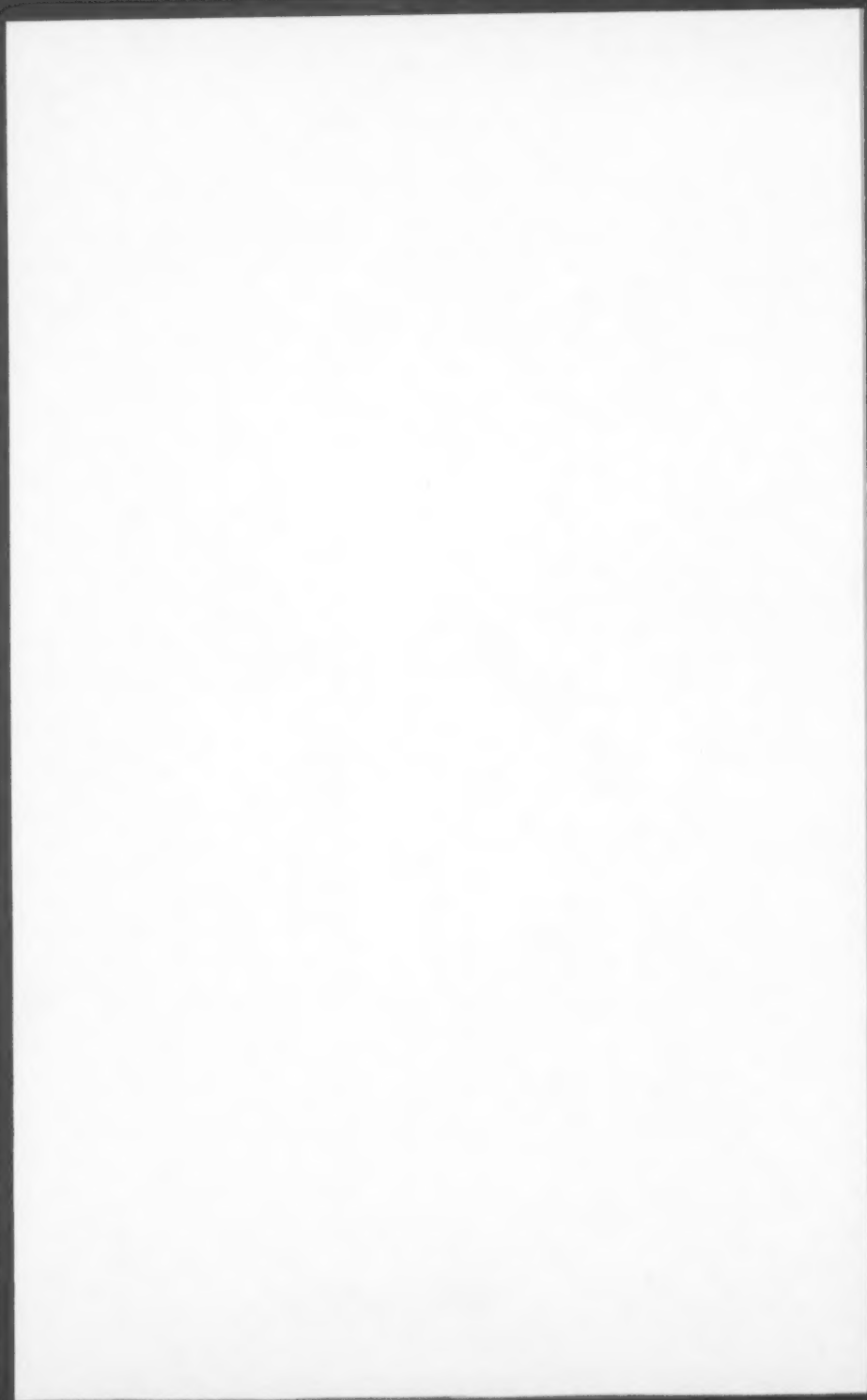
	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
+	376.56 7.6%	A.N. Deringer, Inc. v. U.S., C.D. 4218 (1971); Izod Outer- wear v. U.S., 9 CIT 309 (1985); H. Rosenthal v. U.S., C.D. 4769 (1978); Pacific Trail Sports- wear v. U.S., 5 CIT 206 (1983) and Slip Op. 88-28 (1988)	Seattle Womens' raincoats
	740.38 11%	Agreed statement of facts	Los Angeles Ladies' ornamental belts
r	688.45, 688.42, 688.43, or 688.36 Various rates	Belfont Sales Corp. v. U.S., 878 F.2d 1413 (1989) or Texas Instruments Inc. v. U.S., 673 F.2d 1375 (1982)	New York Quartz analog watches, etc.

ABSTRACTED VALUATION

DECISION NO./DATE JUDGE	PLAINTIFF	COURT NO.	BASIS OF VALUATION
V91/1 1/14/91 DiCarlo, J.	Zale Corp.	89-7-00391	Transaction value

ION DECISIONS

	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
	Price paid by Zale of Hong Kong to the Hong Kong manufacturers and suppliers of the merchandise as set forth in manufacturers' and suppliers' commercial invoices to Zale of Hong Kong	Agreed statement of facts	New York Not stated



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